LIBERTY LEGAL INSTITUTE

KELLY J SHACKELFORD
Chief Counsel

HEADQUARTERS
903 East 18th St. Suite 230
Plano, Texas 75074
972-423-3131 Fax 972-423-8899
libertylegal@libertylegal.org
www.libertylegal.org

HIRAM SASSER*
Director of Litigation

*Also Licensed in Oklahoma

October 8, 2004

The Honorable John Cornyn
Chair, Subcommittee on the Constitution
517 Hart Senate Office Building
Washington, D.C. 20510

Re: *Answers to Questions- "Hostility to Religious Expression" Hearing*

Dear Chairman Cornyn:

Thank you for your leadership and foresight in addressing the important issues of Hostility to Religious Expression in the Public Square. My answers to your questions are as follows:

Questions 1- No, we do not agree with the few in the hearing who suggested that hostility to religious freedom is not an issue in this country. Hostility to religious expression is real and much too frequent, to an extent that would be shocking to most Americans. Exhibit A (attached) is a long list of cases, over 50 pages worth, reflecting religious hostility across America. These cases just scratch the surface of what is happening across the country. The sad truth, in addition, is that most people suffering discrimination simply quietly accept it without ever raising an objection. For ever case actually prosecuted, there are nine others silently suffering hostility to their religious expression.

Regarding your question of organizations who, in our opinion, actively litigate against religious freedom, the American Civil Liberties Union, People for the American Way and Americans United for Separation of Church and State are the leaders, constantly battling against expression of a religious viewpoint in the public square. Many of their attacks are noted in our 50 plus page list of cases. For example, in *Good News Club v. Milford Central School,* 533 U.S. 98 (2001), the American Civil Liberties Union, People for the American Way and Americans United for Separation of Church and State filed *amicus curiae* briefs advocating the suppression of speech from a religious viewpoint for all elementary school children.

Regarding *Question 2*, I do believe the Equal Access Act is working fairly well. The Act's protections against discrimination, however, should also be extended to protect children in all schools, not just secondary schools. Discrimination against children based on their religion is really hurtful and damaging, no matter what the age of the child.

Remedies and enforcement mechanisms are not currently adequate to protect people who suffer violations of their rights to religious expression. The main problem is a natural one- there are no real damages for the loss of precious constitutional rights, no money amount, and thus government officials will often continue in their violation, knowing there will be little monetary risk. This can be remedied by providing real damages to religious freedoms victims. I would suggest, for instance, that victims receive statutory damages equal to the amount of hours the government's attorneys spent fighting against their freedoms times the highest reasonable rate charged in that community. There would now be some incentive for government to at least stop a continuing violation.

Ability to recover attorneys' fees is also a serious problem. As stated above, there are no real actual damages in these cases. Attorneys are thus reticent to take these cases, since they offer little remuneration. The only encouragement is that they may at least be able to recover their attorney's fees if they win. The way things are currently working, however, discourage even this. Attorneys who are successful in protecting the religious freedoms of civil rights victims are usually met with aggressive and often personal attacks when they seek to recover their fees. After all, the very government attorneys who were beaten in the case now get to go after the opposing attorneys who beat them and get to do all they can to reduce their recovery. Every minute they spent representing their client is questioned and judges usually dramatically reduce their total time spent and rate recovered. Meanwhile, the government's attorneys never have to give back a penny of what they were paid, for each hour, *even though they lost the case*. It is no wonder it is difficult for civil rights victims to find an attorney to represent them.

I suggest that attorneys who successfully represent religious freedoms victims and restore any of their freedoms be treated more like all other attorneys are treated in the marketplace. They should submit their fees to the court, with an affidavit swearing the time spent and rate are true and correct. The time and rate should then be rebuttably presumed unless a high level of proof is offered to prove otherwise.

Hostility to religious expression is a real problem. Victims desperately need better protection in the law and the encouragement in the law to get the highest quality of legal representation, so that the Constitutional freedoms of us all are protected.

Sincerely,

Kelly Shackelford, Esq.
Chief Counsel

LIBERTY LEGAL INSTITUTE

KELLY J SHACKELFORD
Chief Counsel

HEADQUARTERS
903 East 18th St. Suite 230
Plano, Texas 75074
972-423-3131 Fax 972-423-8899
libertylegal@libertylegal.org
www.libertylegal.org

HIRAM SASSER*
Director of Litigation

*Also Licensed in Oklahoma

EXAMPLES OF HOSTILITY TO RELIGIOUS EXPRESSION IN THE PUBLIC SQUARE

REPORTED CASES, MEDIA ARTICLES, UNREPORTED CASES, AND LAW REVIEW ARTICLES

(Some of these cases were resolved correctly, many not, but they all show the hostility to religious freedom currently ongoing nationwide)

• *From Lynn Lucas Middle School in Houston, Texas:*

A schoolteacher trashed two students' Truth for Youth Bibles and took the students to the principal's office where she threatened to call Child Protective Services on their parents for permitting them to bring their Bibles. Later at the same school, different officials threw away students' book covers with the Ten Commandments, claiming the commandments were hate speech and could offend students.

• *Girl Barred from Singing 'Kum Ba Yah,'* Washington Post, Aug. 14, 2000 at A2.

An eight-year-old girl was barred from singing "Kum Ba Yah" at camp in a talent show because the song included the words "My Lord." The camp director said, "...You have to check your religion at the door."

• Conrad deFiebre, *Suit Claims Man's Religious Freedom is Being Thwarted; A Revenue Employee Says He's Not Allowed to Display Signs on His Car or Cubicle*, Star Tribune (Minneapolis), July 2, 2004, at 3B.

A Minnesota state Department of Revenue employee Alan Blackburn was barred from parking his car in the state parking lot because of religious and political stickers placed on the car (examples include: "God is a loving and caring God," "God defines marriage as a union between a man and a woman. He also says sex is to be enjoyed between a husband and wife only"). A lawsuit was filed in support of Blackburn's rights to place whatever stickers he wants on his car.

- Joan Little, *City Schools Issue Rules About Students, Religion*, The St. Louis Post-Dispatch, July 11, 1996.

  Elementary school student Raymond Raines was "caught" praying over his meal at school. He was lifted from his seat and reprimanded in front of all the other students. He was then taken to the principal who ordered him to cease praying in school.

STUDENTS

- *C.H. v. Oliva*, 226 F. 3d 198 (3d Cir. 2000).

  Zachary Hood brought his Beginner's Bible to school to share a story about Jacob and Esau called "A Big Family" as part of class activities, but Zachary's teacher refused to allow the story to be read because it was religious. Zachary's mom filed a lawsuit to allow Zachary to share his story just as the other students were permitted to share theirs.

- *Walz v. Egg Harbor Township*, 342 F.3d 271 (3d Cir. 2003).

  A pre-kindergarten student, Daniel Walz, was prevented from giving out pencils with the message "Jesus Loves the Little Children" engraved on them and later as a first grader was prevented from distributing candy canes with "The Candy

Maker's Witness" attached to the candy. A lawsuit was filed to protect Daniel's rights to give gifts at school just like other children could, but the Third Circuit refused to uphold Daniel's rights to give his gifts and instead decided in favor of the school's discrimination.

• *Denooyer v. Merinelli*, 1993 U.S. App. LEXIS 20606 (August 3, 1993).

When elementary student Kelly Denooyer was selected as her class' VIP of the Week, she brought a video of her singing a solo at church to share with her class. But the teacher refused to play the tape for a variety of reasons, including concern about the videotape's religious message. A lawsuit was filed to protect Kelly's rights, but the court determined that Kelly's free expression rights were not violated by the censorship of her video.

• *Settle v. Dickson County Sch. Bd.*, 53 F.3d 152 (6th Cir. 1995).

Ninth grader Brittney Settle selected Jesus Christ as the topic for her open research project, but her teacher later refused to approve the subject and gave Brittney a zero for her grade and did not permit her to submit another project. A lawsuit was filed to protect Brittney's free expression rights, but the court refused to uphold Brittney's rights and found in favor of the school.

•*Westfield High Sch. L.I.F.E. Club v. City of Westfield*, 249 F. Supp. 2d 98 (D. Mass. 2003).

A student started a religious club and wanted to hand out candy canes with a religious message at school. The school denied the students' permission and the students were suspended for distributing their candy canes. The students were

forced to file suit in federal court in order to enforce their right to give candy to classmates without facing suspension.

- *Duran v. Nitsche*, 780 F. Supp. 1048 (E.D. Pa. 1991).

  Fifth grader Diana Duran was a member of the Academically Talented Program, where she was assigned an independent study project. She completed the project on the Power of God as originally approved by her teacher. However, when doing her research (including a student survey of classmates' religious beliefs) and attempting to present her project to the class (as part of the assignment), school officials intervened and prevented Diana from successfully completing the project. Diana along with her guardians filed a lawsuit to protect her First Amendment freedoms, but the court did not uphold her rights and upheld the school's action, saying she had no such rights in the classroom.

- *Hsu v. Roslyn Union Free Sch. Dist.*, 85 F.3d 839 (2d Cir. 1996).

  Students Emily and Timothy Hsu wanted to form a student Bible club at school, but were denied club recognition because the students insisted that the club have a policy permitting only Christians to serve as officers. A lawsuit was filed to protect the clubs' right to pick leaders in accordance with their faith. The court only permitted certain leadership positions to have a requirement relating to the member's faith and would not permit all leadership positions to have such a requirement.

- *Zobrest v. Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993)

  Through the Individuals with Disabilities Education Act (IDEA), a deaf student was entitled to access to a sign-language interpreter during the school day, so the

student asked the Catalina Foothills School District to provide such an interpreter. The student attended Catholic school, and the district refused to provide an interpreter. A lawsuit had to be filed to uphold this religious student's rights.

- *Axson-Flynn v. Johnson*, 356 F.3d 1277 (10th Cir. 2004).

  University of Utah acting student Christina Axson-Flynn withdrew from the acting program and left the university after her instructors heavily pressured her to perform scenes that required her to say profane words. Axson-Flynn was a Mormon and had informed the instructors of her religious objections to profane phrases during her audition for acceptance to the acting program.

- *From Northwest Elementary School in Massachusetts*

  Seven-year-old Laura Greska brought a book called *The First Christmas* to fulfill an assignment that asked students to share with the class about their family's Christmas traditions, but was forbidden from sharing it with the class because it was "religious" as it centered on Jesus Christ's birth.

- *From Walker County School District in Birmingham, Alabama:*

  Eleven-year-old Kandice Smith was told that she was not permitted to wear her cross to school because it would violate the dress code at Curry Middle School. The dress code was devised to hinder gang activity at the school, and only after a lawsuit was filed did the school finally decided to incorporate an exception compatible with the Alabama Religious Freedom Amendment.

- *From Kettering City School District, Ohio:*

  A teacher prevented a kindergartener from giving out bags of jelly beans with a religious poem to classmates around Easter 2003. She was trying to uphold a

school policy against students distributing religious literature in the classroom, though secular messages are permitted. A lawsuit was filed in U.S. District Court in Ohio.

- *From the Flagstaff, Arizona Unified School District:*

  Sixth-grader Caitlin Ribelin wanted to tell classmates about her church youth group, but her school principal prevented her from doing so because of school policies preventing distribution of religious materials not authored by students. A lawsuit had to be filed against the school district to allow religious literature to be treated the same way that secular literature is treated.

- *From Muskogee Public School District, Oklahoma:*

  An 11-year-old Muslim student was suspended for wearing her religious hair covering to school, in violation of the school's dress code. A lawsuit was filed to protect the student's religious rights in federal court in Oklahoma, and the school district finally decided to settle after the U.S. Department of Justice opened an investigation.

- *From Cushing Elementary School, Delafield, Wisconsin:*

  Morgan Nyman, an eight-year-old student was denied the opportunity to share the valentines that she had made by hand with her classmates because the Valentines included religious messages, which would "violate the separation of church and state" if little Morgan was permitted to hand them out. A lawsuit was filed to protect Morgan's rights, and the Kettle Moraine School District only relented after litigation, deciding to allow Morgan to pass the valentines out.

- *From the Boulder Valley School District, Colorado:*

For a class project, students were asked to select their favorite book for an oral book report. Eleven-year-old student Elizabeth Johnson selected the Bible, specifically Exodus, to share with the class, but the teacher rejected the student's choice, saying that the Bible may be "offensive" to some. Additionally, Elizabeth was told that she could not bring her Bible to school. An attorney became involved and sent a letter to the district explaining how Elizabeth's rights had been violated, and a television station contacted the school about the events. Twenty minutes after the news called, the district relented and permitted Elizabeth to select the Bible as the subject of her book report.

- *From Miami-Dade, Florida:*

  Students tried to distribute business-sized cards to other students on the Miami-Dade Community College campus; the cards had a number for people to call where they could hear a recorded message about Jesus Christ. Campus security officers approached and told the students that they couldn't pass out the cards. Later, the students returned to resume handing out their cards and were approached by security officers and an administration official. When the students tried to leave, more security officers were summoned as was a police officer who threatened to arrest the students. A lawsuit had to be filed to protect the students' rights, and the school was barred from reviewing Christian literature and could prevent its distribution only in limited circumstances.

- *From Boca Raton School District, Florida:*

  Members of the Fellowship of Christian Athletes (FCA) were denied the opportunity to share a religious message on construction panels in the school as

part of a beautification project. Though students were told that no profane or obscene messages were permitted, no policy was mentioned regarding religious messages. The students' messages were edited to eliminate "God" and "Jesus." A lawsuit was filed.

• *From Asa Adams School in Orono, Maine:*

Third grader Gelsey Bostick wore a t-shirt and sweatshirt that said "Jesus Christ" on them, and her teacher asked her to turn both articles inside out because they were causing a commotion and offended one of the students. Furthermore, some students construed the words "Jesus Christ" as swear words. The school reversed itself only after a religious liberties law firm intervened.

STUDENT PRAYER

• *Goulba v. Sch. Dist. of Ripon*, 45 F.3d 1035 (7th Cir. 1995).

After students recited the Lord's Prayer, on their own accord, before the opening of graduation ceremonies, student Nikki Goulba filed a civil contempt motion against the School District of Ripon and the Ripon High School principal, claiming that the officials violated a permanent injunction that prevented them from permitting prayer during school graduations.

• *ACLU v. Black Horse Pike Reg'l Bd. of Educ.*, 84 F.3d 1471 (3rd Cir. 1996).

A lawsuit was filed challenging a school policy that permitted the graduating class to vote to determine if there would be student-led prayer during graduation ceremonies. The court struck down the policy, determining it violated the Establishment Clause and enjoined the school from permitting the prayer.

• *Adler v. Duval County Sch. Bd.*, 250 F.3d 1330 (11th Cir. 2001).

Lawsuit filed to challenge a school policy permitting high school seniors to use a popular vote to select a graduation speaker who could deliver a message of their choosing, without approval by school officials. The offense was that some students would use their time of speech to express religious thoughts.

- *Candler v. Siegelman*, 230 F.3d 1313 (11th Cir. 2000).

  A principal and student filed suit to challenge an Alabama statute, which allowed student-initiated prayer during school events.

- *Geardon v. Loudon County Sch. Bd.*, 844 F. Supp. 1097 (E.D Va. 1993) (mem.).

  Parents and students filed a lawsuit challenging prayer at a high school graduation, and the court permanently enjoined the school from permitting prayer at graduation ceremonies.

- *Jones v. Clear Creek Indep. Sch. Dist.*, 977 F.2d 963 (5th Cir. 1992).

  A Clear Creek ISD parent filed suit to challenge a policy permitting high school seniors to select student volunteers to give nonsectarian, non-proselytizing invocations at graduation ceremonies.

- *Mellen v. Bunting*, 327 F.3d 355 (4th Cir. 2003).

  Two students brought suit challenging the practice of having a supper prayer at a military school in Virginia on the grounds that it violated the Establishment Clause and the court struck down the practice.

- *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000).

  A lawsuit was filed to challenge a school district policy permitting student-led, student-initiated prayer prior to football games, and the court struck down the policy, determining it violated the Establishment Clause. In the lower court in this

same case, the judge ordered students not to pray in Jesus' name and told them that federal marshals would be on hand to take students to the Galveston County Jail, saying "Anyone who violates these orders, no kidding, is going to wish that he or she had died as a child when this court gets through with it."

• *Lee v. Weisman*, 505 U.S. 577 (1992).

In Providence, Rhode Island, principals of public school were permitted to ask clergy to give invocations and benedictions at graduation exercises, but when a middle school principal invited a rabbi to give a nonsectarian prayer, a student's parent got a temporary restraining order to prevent the prayer and sought a permanent injunction to prevent the practice of inviting clergy to perform prayers in the future.

• *Wallace v. Jaffree*, 472 U.S. 38 (1985).

A lawsuit was filed to challenge the practice of having a period of meditation and voluntary prayer in schools in Alabama.

• Frank J. Murray, *Federal Court Hears Lawsuit Over Kindergarten Christian; New York Schools May Relent, May Let Tot Say Grace at Meals*, The Washington Times, April 12, 2002.

Kindergartner Kayla Broadus prayed, "God is good. God is great. Thank you, God, for my food," with two classmates at her school in Saratoga Springs, New York at the snack table before they ate their snack. Her teacher silenced the prayer, scolded Kayla and informed the school lawyer. A lawsuit ensued over the child's prayer.

• *From Aledo Independent School District, Aledo, Texas:*

Katherine Furley was elected to pray at her graduation ceremony, but then was ordered to submit her prayer to officials. School officials then proceeded to edit, word by word, which words she could and could not pray. A lawsuit was filed to protect Katherine's right to pray without being edited by the government. The Court ruled against her right to pray without government editing.

• *From Norfolk High School, Nebraska*:

After graduating seniors voted to have prayer in their graduation, a student complained to the ACLU, who threatened legal action against the school if they permitted the prayer. At the graduation ceremony, school officials announced that there would be no praying during the ceremony.

SCHOLARSHIP AWARDS AND VOUCHERS

• *Locke v. Davey*, __ U.S. __, 124 S. Ct. 1307 (2004).

Josh Davey received a Promise Scholarship, which was awarded to academically gifted students with postsecondary education expenses, to use at any college in the state. He decided to pursue a double major in pastoral ministries and business management/administration. Davey was told that he could use the scholarship for any major unless he was devoted to become a pastor. The Court ruled against him.

• *Eulitt v. Me. Dep't of Educ.*, 307 F. Supp. 2d 158 (D. Me. 2004).

Though Maine state law requires free public education for kindergarten through 12th grade, the town of Minot only has schooling through the eighth grade, and the town has contracted to send their students elsewhere for high school, public

school or other schools if the student has "educational program requirements that may not be offered in association with PRHS." A Minot family was denied access to public funding for child's tuition to Catholic high school, despite the fact that the state had the authority to approve payments to alternative schools, and a lawsuit was filed.

• *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).

An Ohio voucher program was enacted because the public school system was in a "crisis of magnitude," and families were given voucher funds to use toward a school of their choosing. Many families elected to use their vouchers for religious schools, and as a result, a lawsuit was filed to challenge the program, claiming it established religion.

• *From Michigan:*

A Cornerstone University graduate student received a tuition grant from the state of Michigan. But when the student decided to pursue a Pastoral Studies divinity degree, the financial aid office of the university informed him that he was no longer eligible for the grant because it could not be used for divinity, theology, or religious instruction. In other words, religious studies were being treated differently than other areas of study.

SCHOOL FACULTY AND OTHER STATE EMPLOYEES

• *Barrow v. Greenville ISD*, 332 F.3d 844 (5th Cir. 2003).

Karen Jo Barrow was denied an assistant principal position because she refused to remove her children from private, Christian school. A lawsuit was filed to protect

her rights to select a religious education for her children without suffering repercussions for it at work in the public schools. Though the district court refused to uphold Barrow's parental rights to send her children to Christian school, the Fifth Circuit did and warded off this egregious religious discrimination on the part of the school district.

- *Fraternal Order of Police v. City of Newark*, 170 F.3d 359 (3d Cir. 1999).

  Two Muslim police officers in Newark were required to shave their beards after the city issued an order requiring all police officers to be clean shaven. The order permitted a medical exemption, but not a religious exemption. The officers had to file a lawsuit to protect their constitutional right to free exercise of their religion.

- *Nichol v. Arin Intermediate Unit 28*, 268 F. Supp. 2d 536 (W.D. Pa. 2003).

  The school district suspended an elementary school instructional assistant Brenda Nichol for wearing a cross necklace, finding her in violation of a district policy based on the Pennsylvania's Garb Statute, which prohibited teachers and other public school employees from wearing religious emblems or insignia. A lawsuit was filed to remedy the policy, which was overtly and openly hostile to religion, and to prevent the district from forbidding symbolic speech by employees from a religious viewpoint.

- Peloza v. Capistrano Unified Sch. Dist., 37 F.3d 517 (9th Cir. 1994).

  The Capistrano Unified School District forbade John Peloza, a biology teacher, from discussing religious matters with students the entire time he is on the school campus, even if the discussion occurs outside of class time and is student-initiated. Essentially the district had a history of reprimanding and harassing

Peloza because of his worldview. Peloza filed suit to protect his constitutionally-protected free speech and equal protection rights, but the court dismissed Peloza's complaint finding that the school district's interest in avoiding an (unlikely) Establishment Clause violation trumped Peloza's rights.

- *Roberts v. Madigan*, 921 F.2d 1047 (10th Cir. 1990).

  Mr. Roberts' class had a silent reading period daily, and Mr. Roberts had a library of 239 books, from which the students could select reading material. Two of the books dealt with Christianity. Mr. Roberts participated in the reading period, often choosing to read his Bible, and he kept the Bible on his desk during the school day. The school principal censored Mr. Roberts, forbade him from placing his Bible on his desk during the school day and from reading it during the school day, and forbade him from keeping the two Christian books in the library. A lawsuit was filed to end the religious bigotry against Mr. Roberts, but the court upheld the school's action and even awarded the school district court costs.

- Diane Lynne, *Petition Posted to Defend 'God Bless America,'* WorldNetDaily, Jan. 31, 2003.

  Military honor guardsman Patrick Cubbage was fired for saying "God bless you and this family, and God bless the United States of America" to families as he presented a folded flag in honor of a fallen veteran. Though the families did not object to the practice, Cubbage's co-guardsmen complained to their supervisor, and Cubbage was warned not to say the blessing to the families. Later Cubbage gave the blessing to family after a request from the fallen veteran's son, and shortly thereafter Cubbage was fired for giving the blessing.

• Jeremy Gray, *Man Fired Over Lapel Pin Garners Support*, The Birmingham News, June 27, 2004, News.

The Hoover Chamber of Commerce fired employee Christopher Word because he wore a Ten Commandments lapel pin.

• Bill McAllister, *Gearing Up for Christmas*, Washington Post, Sept. 29, 1995, at N66.

The Post Office issued guidelines advising clerks to use words like "Happy Holidays" and to avoid any decorations with a religious theme.

• *From Logan, Kentucky:*

A public library policy prevented employees from wearing religiously-oriented jewelry, and an employee was fired for wearing a cross. A lawsuit was filed to protect the employee's right to free speech and religious freedom.

• *From Honolulu, Hawaii:*

Honolulu city employee Kelly Jenkins was prohibited from posting religious literature, like an invitation to his church, in common areas of the employee break room and employee bulletin boards because of "separation of church and state" concerns. A lawsuit had to be filed to protect Jenkins' rights.

REGULAR CITIZENS

• Jeffrey Spino, *Banned Yarmulke Leads to Judicial Conduct Commission Complaint*, Texas Lawyer, Sept. 30, 1996, at 5.

Judge Patricia Lykos ordered a Jewish attorney Gil Fried to remove his yarmulke in Texas Court when he was serving as an expert witness.

• *From Vermont:*

Nancy Zins attempted to purchase specialty plates in Vermont for herself and for her husband with the messages "ROMANS8" and "ROMANS5" on the plates, but her request was denied by the Vermont DMV, which claimed that the messages may be offensive. After first going through the Agency of Transportation, a lawsuit was filed to protect her free speech rights and her ability to select a message for her license plate just as other non-religious citizens are free to do.

• *From Northglenn, Colorado:*

A coach shared his faith as he coached swimming in the city recreation facility. The city recreations director sent the coach a letter, informing him that he was no longer welcome on the premises of the city recreation facility. A concerned parent inquired to the city to find out why the coach had been banned and was told that the coached used offensive language. Upon further investigation, the parent discovered that the coach's preaching was the problem. A lawsuit was filed to protect he man's rights to access the city recreation facility.

IN THE SCHOOLHOUSE

• *Fleming v. Jefferson County Sch. Dist. R-1*, 298 F.3d 918 (10th Cir. 2002).

Columbine High School hosted a tile-painting project, so students could express themselves following the school's tragedy. Some students expressed themselves with religious symbols, including a victim's sister who incorporated a small yellow cross in her tile design. After the tiles were posted, the school officials eradicated the religious symbols from the tile display, so a lawsuit was filed to prevent the school officials from censoring the religious expression of the

students. Unfortunately, the court chose not to uphold the students' expression rights and instead validated the school's censorship.

- *Demmon v. Loudoun County Pub. Sch.*, 279 F. Supp. 2d 689 (E.D. Va. 2003).

  For a school fundraiser, people could purchase bricks and have text and symbols inscribed on the bricks to be used in a sidewalk surrounding the school's flagpole, and some purchasers elected to have a Latin cross inscribed. A parent complained about the crosses, so the school district removed all the crosses. A lawsuit was filed to protect the religious expression from censorship.

- *Selman v. Cobb County Sch. Dist.*, 2004 US Dist. LEXIS 5960 (N.D. Ga. 2004).

  A Georgia School District decided to place a sticker in new science textbooks explaining that evolution was a theory, not a fact, and encouraging students to study with open minds and critical thinking skills. But a handful of parents complained that the sticker restricted teaching evolution and promoted creationism and filed a lawsuit to prevent its use, under the guise that such a sticker violated the Establishment Clause.

- *Good News Club v. Milford Central School*, 533 U.S. 98 (2001).

  The Milford Central School denied the Good News Club use of the school's facilities after school. A lawsuit was filed to protect the religious group's right to use the school's facilities just like other organizations could, without being discriminated against because it is a religious group. The case had to go all the way to the Supreme Court before the religious group was vindicated because the lower courts both upheld the school's unlawful religious discrimination.

- *Widmar v. Vincent*, 454 U.S. 263 (1981).

The University of Missouri at Kansas City refused to allow a religious student group access to university facilities as other student groups were permitted to do. The students were forced to file a lawsuit in order to protect their rights to equal access. They simply desired for their religious organization to be afforded the same rights as other student organization.

- *Wigg v. Sioux Falls Sch. Dist.*, 274 F. Supp. 2d 1084 (D.S.D. 2003)

  A school district refused to allow a teacher to participate in a Good News Club meeting at the school after school hours, so the teacher filed suit to protect her rights to assemble with the religious group. The court only partially protected her rights, ruling that she could attend Good News Club meetings, but arbitrarily determined that she only had the protected right to participate in meetings at schools other than where she taught.

- *Bd. of Educ. v. Mergens*, 496 U.S. 226 (1990).

  The school board refused to allow students to form an extra-curricular Christian club, claiming such a club would violate the Establishment Clause, despite the fact that various other clubs met at the school. A lawsuit was filed to protect a Christian group from being unlawfully discriminated against by a school board.

- *Ceniceros v. Bd. of Trs. of the San Diego Unified Sch. Dist*, 106 F.3d 878 (9th Cir. 1997).

  The school district refused a religious club the opportunity to meet during non-instructional lunchtime, though other groups could. A lawsuit was filed on behalf of the students to prevent the district's unlawful discrimination and to uphold the

students' rights under the Equal Access Act. The case went to the Ninth Circuit before the students were finally afforded their constitutional protection.

- *Edwards v. Aguillard*, 482 U.S. 578 (1987).

  A suit was filed to challenge Louisiana's Creationism Act. The Creationism Act provided that if evolution is taught in public schools, creation science must also be taught. And if creation science is taught, then evolution must be taught as well. The suit sought to strike down the act under the guise that it violated the Establishment Clause, and the Supreme Court obliged, striking down the Creationism Act.

- *Bauchman v. West High Sch.*, 132 F.3d 542 (10th Cir. 1997).

  A school choir's repertoire included Christian music and occasionally sang at a church, and a Jewish choir student's family filed a lawsuit, essentially asking the court to censor the choir from singing any religious music. The case reached the Tenth Circuit before the unlawful religious censorship threat was abated.

- *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819 (1995).

  The University of Virginia denied a student journal funding from the school's student activity fund because of the journal's religious viewpoint. The student filed a lawsuit to challenge the guidelines for disbursement of student activity funding because the guidelines were used to discriminate religious viewpoints. The student filed a lawsuit and had to go all the way to the Supreme Court just to have their constitutionally-guaranteed rights upheld.

- *Chandler v. James*, 985 F. Supp. 1068 (D. Ala. 1997).

Plaintiffs ("civil liberties activists") filed a lawsuit and succeeded in permanently enjoining school board and public officials from accommodating religious activity in schools. The court determined that the school officials' behavior had violated the Establishment Clause because they permitted prayer at school functions, excused students from school for baccalaureate services, and permitted religious study with non-school persons during school hours.

- *Child Evangelism Fellowship v. Montgomery County Pub. Schs.*, 2004 U.S. App. LEXIS 13487 (4th Cir. 2004).

  The Montgomery County Schools refused to allow the Child Evangelism Fellowship (CEF) to participate in the district's take-home flyer forum to distribute flyers about the Good News Club, citing fears about the separation of church and state. A lawsuit was filed to protect the rights of CEF to participate in the flier program just as other organizations were permitted to do and to force the school district to cease the religious discrimination.

- *Child Evangelism Fellowship of New Jersey v. Stafford Township*, 233 F. Supp. 2d 647 (D.N.J. 2002).

  A religious organization was denied permission to post fliers, pass fliers out, staff tables at back-to-school-night or allow students to pass materials to other students about a religious club forming in schools. A lawsuit was filed to protect the right of a religiously-affiliated organization to utilize the same forums that were afforded to other groups and to prevent the school board from discriminating based on a religious viewpoint.

- *Daugherty v. Vanguard Charter Sch. Acad.*, 116 F. Supp. 2d 897 (W.D. Mich. 2000).

Parents of children attending the Vanguard Charter School Academy claimed that the school violated the Establishment Clause because a mom's prayer group met in the parent room, teachers and staff prayed (on their own accord) on school property, religious materials were distributed in student's folders (a content neutral forum), and the school taught morality. These parents filed a lawsuit to prevent the school from permitting the religious activity at the school.

- *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402 (5th Cir. 1995).

  A student and her father filed a lawsuit because the school permitted employees to be involved with student prayer after basketball games, permitted the choir to use a Christian song as its "theme song" and permitted the distribution of Gideon Bibles to fifth grade classes. The court upheld the right of the choir to sing the religious song but struck down the employees' involvement with prayer, determining that such an exercise violated the Establishment Clause.

- *Mitchell v. Helms*, 530 U.S. 793 (2000).

  Under the Education Consolidation and Improvement Act of 1981, government aid for materials and equipment was provided to public as well as private schools. A lawsuit was filed by parties claiming the law violated the Establishment Clause simply because private schools, including religious schools, received a benefit from the act, which the parties claimed served as an establishment of religion.

- *Peck v. Upshur County Bd. of Educ.*, 155 F.3d 274 (4th Cir. 1998).

  A school board policy permitted religious groups to provide religious materials and Bibles to students on one designated day each school year, but a lawsuit was filed to strike down the policy.

• *Powell v. Bunn*, 185 Ore. App. 334 (Or. Ct. App. 2002)

An Oregon school district allowed the Boy Scouts to present information on membership to students, but a parent filed suit, challenging the policy on the grounds that it violated the Establishment Clause.

• *Rusk v. Crestview Local Schs.*, 220 F. Supp. 2d 854 (N.D. Ohio 2002).

School permitted non-profits, including religious non-profits, to submit flyers to the school for distribution to the students' mailboxes, and a parent filed a lawsuit, objecting to the religious groups being able to submit flyers, even though the flyers did not advocate the religion and were not proselytizing. The court half-heartedly upheld the religious groups' rights to utilize the mailbox distribution, but the court only permitted the groups to distribute certain messages and censored information relating to a religious or sectarian event.

• *Skoros v. City of New York*, 2004 U.S. Dist. LEXIS 2234 (E.D.N.Y. 2004).

A Catholic parent objected to policy of excluding a Crèche from New York City Schools' holiday displays while permitting Menorahs, the Star and Crescent and Christmas Trees. A lawsuit was filed to remedy the exclusion of the Crèche. The court determined that it was appropriate to exclude the Crèche as it was still a religious symbol while the others had become secularized and that a child would not perceive an endorsement of the Judaism or Islam or disapproval of Christianity.

• *Washegesic v. Bloomingdale Public Schs.*, 33 F.3d 679 (6th Cir. 1994).

A portrait of Jesus Christ hung in a hallway of a school, and a former student filed suit against the school, asserting that the portrait was an Establishment Clause violation, and the court agreed and decided that the picture must be removed.

- Lisa Falkenberg, *Policy Involving Evolution Prompts Federal Inquiry*, Associated Press, Jan. 29, 2003, BC cycle.

  The story details how Texas Tech professor Michael Dini discriminated against students on the basis of their religion, and the university stood behind the professor saying the professor's policies were not in conflict with those of Texas Tech.

- Ryan McCarthy, *School Rallies to Retain Sigh; The ACLU Says the Message 'God Bless America' Divides Kids by Religion and is Unconstitutional*, The Sacramento Bee, Oct. 6, 2001.

  In the wake of Sept. 11, 2001, Breen Elementary School in Rocklin, California had a sign posted that said 'God Bless America,' and the ACLU intervened in an attempt to have the sign removed, calling it a clear violation of the U.S. and California constitutions and divisive.

- Barbara Vobejda, *School Officials Weigh Sachs' Ruling on Religious Gatherings*, Washington Post, Dec. 8, 1984, B3.

  Maryland Attorney General Stephen H. Sachs ruled that Catonsville High School students could continue their informal religious activity of gathering to read the Bible during their Thursday lunch hours. School administrators were worried about the ruling because they feared it would create problems in a "sensitive area." Additionally, in Prince George's County school administrators renamed

Christmas trees and Christmas pageant, holiday trees and holiday pageant respectively.

- *From Oswego County, New York:*

  The Mexico Academy High School decided to start removing bricks that had been purchased and inscribed as part of a school fundraiser if the brick contained a Christian message. A lawsuit had to be filed to protect the free speech and equal protection rights of citizens who had purchased the bricks and to prevent the religious censorship.

- *From Crosby-Ironton High School in Crosby, Minnesota:*

  The Crosby-Ironton High School censored the Lunch Bunch, a Christian group, from using flier to describe their group and to promote the See You at the Pole event. A lawsuit was filed to protect the students' rights, the same rights afforded to other student organizations.

- *From Los Angeles Unified School District:*

  The Los Angeles Unified School District tried to force a "Good News Club" to pay fees to utilize school facilities, but did not require fees from the Boy Scouts or the YMCA. A law suit was filed, seeking to grant religious groups equal access to school facilities.

- *From Montgomery County Public Schools, Maryland:*

  A school policy prevented students from receiving credit for their religious community service to fulfill the 60-hour community service graduation requirement. Students who worked at a Vacation Bible School on an Indian Reservation were not permitted to count that time toward their hourly

requirement. Attorneys intervened and the students were permitted to count the hours, but, unfortunately, the policy remains and continues to discriminate against students who participate in religiously-based community service.

- *From Dillon, Montana:*

  Motivational speaker Jaroy Carpenter was prevented from speaking at an assembly in the Dillon Middle School because he was an evangelical Christian and affiliated with the Dawson McAllister Association. He was prevented from speaking despite the fact that he had previously spoken in over 200 secular schools, and he agreed to omit discussions of his religious faith and references to a youth rally being held nearby. A lawsuit was filed to protect Carpenter's rights.

- *From Carl Sandburg Community College, Indiana:*

  Cosmetology teacher Louise Piggee was reprimanded severely and denied a contract renewal after she shared some religious literature outside of the classroom with a student with whom she had developed a relationship. A lawsuit was filed.

- *From Reno, Nevada:*

  School officials sought to prevent a Bible club from disturbing candy canes with the message "Jesus Loves You" attached to it.

- *From Northville High School in Michigan:*

  A Bible club was told it would have to meet before or after school and not during seminar period as other groups are permitted to do because of the religious nature of the group. Bible club members filed suit to protect their right to meet without being discriminated against because their groups was religious.

• *From Panama City, Florida:*

A school principal changed the name of the Bible Club from Fellowship of Christian Students to Fellowship of Concerned Students without conferring with student members.

• *From Beaumont Independent School District, Texas:*

The superintendent started a "clergy-in-schools" program, which allowed clergy to mentor students, but the Americans United for Separation of Church and State filed suit seeking to strike down the program.

• *From South Tama Community School District, Iowa*:

The community center denied the Fellowship of Christian Athletes (FCA) access to facilities, so an FCA member complained and a demand letter was sent to the school district, informing them of the situation. Only then, did the school district back down and change their policy to stop discriminating against religiously affiliated groups.

• John M. Hartenstein, *A Christmas Issue: Christmas Holiday Celebration in the Public Elementary Schools Is an Establishment of Religion*, 80 Calif. L. Rev. 981 (1992).

RELIGIOUS HOLIDAY OBSERVATION

• *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995).

A teacher filed suit in objection to teachers being permitted to take Good Friday off with pay, claiming the practice violated the Establishment Clause.

• *Bridenbaugh v. O'Bannon*, 185 F.3d 796 (7th Cir. 1999).

A citizen filed suit to challenge the Indiana policy of giving state employees Good Friday as a day off with pay, claiming that the policy established religion.

• *Freedom From Religion Foundation v. Thompson*, 920 F. Supp. 969 (W.D. Wis. 1996) (mem.).

Anti-religion group filed suit to challenge a Wisconsin statute that recognized Good Friday as a holiday, claiming that designating Good Friday as a holiday violates the Establishment Clause. The court agreed, finding that the Establishment Clause was violated.

• *From Garden City Long Island, New York:*

Teachers in Garden City Long Island wanted to use personal days to observe religious holidays, which is one of listed permissible uses for a personal day, but when some Catholic teachers requested to use a personal day for Holy Thursday and some Jewish teachers wanted to use a personal day during Passover, they were denied and were forced to go to arbitration to prevent the religious discrimination.

EQUAL ACCESS , CHURCH AND RELIGIOUS GROUP DISCRIMINATION

• *Bronx Household of Faith v. Bd. of Educ.*, 331 F.3d 342 (2003).

The Bronx Household of Faith filed suit to prevent the New York public schools from discriminating against churches. The public schools refused to allow churches to use school facilities, but permitted other community groups to have access. The church brought suit so it could be treated just like any other community group wanting to use the facility.

•*Church of the Lukumi Babalu Aye, Inc v. City of Hialeah*, 508 U.S. 520 (1993).

The Church of the Lukumi Babalu Aye sought to set up a church in Florida; the church practices Santeria, a religion which incorporates animal sacrifice into its religious practices. Upon hearing of the church's plan to develop a church in the city, the city counsel held an emergency meeting and passed ordinances which would prevent the church from practicing the animal sacrifice, an essential part of the church's free exercise. A lawsuit was filed to protect the church's right to free exercise.

• *Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993).

A New York school board denied a church after-hours access to a school to exhibit a film series about Christian family values because of a policy prohibiting use by any group for religious purposes. A lawsuit was filed to protect the church's right to have access to the school premises. The church should not be treated like a second-class citizen because it is religious.

• *Liberty Christian Center v. Bd. of Educ.*, 8 F. Supp. 2d 176 (N.D.N.Y 1998).

A suit was filed after the Board of Education of Watertown, New York denied the Liberty Christian Center (LCC) access to the Watertown High School Cafeteria during non-school hours. A lawsuit was filed to prevent the Board from discriminating against a religious group and denying its rights to equal access.

• *Amandola v. Town of Babylon*, 251 F.3d 339 (2d Cir. 2001).

Pastor John Amandola's church Roman Chapter Ten Ministries, Inc. had obtained a permit to use the Babylon's Town Hall Annex to hold worship services, but when an angry resident called the city to complain about the facilities being used

for church services, the town revoked the permit. The church filed suit to protect their right to access the community facilities and to end the religious bigotry.

- *Church on the Rock v. City of Albuquerque*, 84 F.3d. 1273 (10th Cir. 1996).

  City prevented senior citizens groups from presenting a Jesus video, giving Bibles away or having sectarian instruction and religious worship at the senior center. So, a lawsuit was filed to challenge the city's policy, which was unconstitutionally restricting religious expression.

- *Ehlers-Renzi v. Connelly Sch. of the Holy Child*, 224 F.3d 283 (4th Cir. 2000).

  An ordinance in Montgomery County, Maryland accommodated churches by exempting them from acquiring a special permit before constructing a school on church property, but a lawsuit was filed in an attempt to strike down the law.

- *Ford v. Manuel*, 629 F. Supp. 771 (N.D. Ohio 1985).

  The Findlay Board of Education permitted the Findlay Weekday Religious Education Council to operate before and after school hours in the public schools in accordance with "Community Use of School Facilities," but parent-taxpayers complained about the program because of concerns regarding the Establishment Clause and filed a lawsuit in hopes of striking down the program.

- *Moore v. City of Van*, 238 F. Supp. 2d 837 (E.D. Tex. 2003)(mem.).

  The City of Van had an unwritten policy of refusing to permit a group to access the Van Community Center if the use was for a religious purpose, so citizens seeking to use the center for religious purposes filed suit to protect their rights and to prevent the city from having policies that discriminate against religious groups.

- *From New York City:*

A New York City pastor wanted to use the Woodside Community Center, located in a public housing development, to host a Bible study for New Yorkers following the attacks on September 11, 2001. The pastor was denied his request because religious services (unless connected to a family oriented event like a wedding) were prohibited. A lawsuit was filed to prevent the community center from treating religious groups differently than other groups.

- *From the Church of Christ in Hollywood, California:*

  Former church member Lady Cage-Barile began to intimidate and harass members of the church and interrupt and disrupt Bible studies, so the church informed her she was no longer welcome on church property. When the church sought an order barring Cage-Barile, the court denied it, and the church was forced to go to the California Court of Appeals to enforce its right to exclude trespassers from church premises.

- *From Mitchell County, Texas:*

  The public library in Mitchell County, Texas tried to deny Rev. Seneca Lee access to a room to hold a meeting about political and social issues from a Christian Perspective because of a library policy that prevented religious groups from using the meeting room. After a lawsuit was filed, the library changed their policy of discriminating against religious groups.

- *From Plano, Texas:*

  The city of Plano attempted to prevent the Willow Creek Fellowship from opening because of the slant of the roof, despite the fact that no ordinance existed relating to the angle of the room and despite the fact that a school just down the

street from the church had an identical angle. Only after threat of a lawsuit did the city relent and permit the church to open.

- *From Cassadaga, Florida:*

  A church was refused zoning approval for a church after they had purchased land outside of Cassadaga, which was a violation of Religious Land Use and Institutionalized Persons Act (RLUIPA). A lawsuit was filed in Federal Court, and the county settled, ending the lawsuit and permitting the church to locate in Cassadaga.

- *From the Dallas Independent School District in Texas:*

  Reunion Church had leased an empty high school on Sunday morning for services, but the school district evicted the church in the middle of the lease, citing the "separation of church and state." A lawsuit was filed to protect the church's equal access, and the school district changed their policy to grant religious groups the same treatment as non-religious organizations.

- *From the Cave Creek School District, Arizona:*

  The Cave Creek public school district passed a policy allowing non-profit community groups to meet in public schools without charge, but the policy excluded churches. A church was charged $1,200 under the policy to access the school. An attorney got involved to explain the constitutional issues associated with the policy and to request records under the Freedom of Information Act to determine how much the school had charged other groups during the previous three years. As a result of the intervention, the school district decided to revise the discriminatory policy and also decided to reimburse the church for their moneys.

- *From Lebanon, Indiana:*

  A minister and a church member from Grace Baptist Church were prohibited form distributing religious literature in a public park, though the minister had distributed materials for years in the park. A lawsuit was filed to protect the minister's rights.

- *From Ontario, California:*

  The Church of the Light bought some land in Ontario after determining that the property was zoned so that it could contain religious assembly. However, the city passed an ordinance requiring new churches to obtain a permit before building, and five days after the ordinance was passed, Ontario's Development Advisory Board denied the church's permit applications, claiming the denial was because if allegations that the church was a cult. A lawsuit was filed to protect the church's rights to build their church.

- *From Balch Springs, Texas (Barton v. City of Balch Springs):*

  Senior citizens were told to stop their 20-year-old practices of praying before their meals, having an inspirational religious message, and singing gospel songs in their Senior Citizens Center because of a new city policy banning religion in public buildings. A lawsuit was filed to defend the seniors' rights.

- *From Dunedin Public Library in Tampa, Florida:*

  The Liberty Counsel was denied access to the library's community meeting room for a meeting relating to America's Christian History and the influence of the Ten Commandments, a historical presentation from a religious perspective, which was open religious viewpoint discrimination.

• *From San Fernando Valley, California:*

The Child Evangelism Fellowship (CEF) applied to the Los Angeles Unified School District to use the Chase Street Elementary School in Panorama City to host a Good News Club. The school policy permitted use by civic and community groups, but prevented use by "sectarian of denominational religious exercises or activities." So, the CEF applied through the Real Estate branch and was willing to pay application and rental fees, which is not required of all other groups, but CEF was still denied. A lawsuit was filed to gain equal access for the religious group and to prevent the school district's religious discrimination.

HOLIDAY DISPLAYS

• *ACLU of NJ v. Township of Wall*, 246 F.3d 258 (3d Cir. 2001).

The ACLU, along with some citizens, filed a lawsuit to challenge a holiday display consisting of a crèche with traditional figures, a lighted tree, urns, candy cane banners, a menorah, and signs commenting on celebrating diversity and freedom as well as wishing passer-bys Merry Christmas and Happy Hanukkah.

• *Amancio v. Town of Somerset*, 28 F. Supp. 2d 677 (D. Mass. 1998).

Somerset resident filed a lawsuit challenging Somerset's Christmas display, which includes a Nativity crèche, holiday lights, a wreath, a Christmas tree and a plastic Santa Claus. The display had been a Somerset tradition for 60 years.

• *Lynch v. Donnelly*, 465 U.S. 668 (1984).

Pawtucket, Rhode Island has an annual Christmas display in the city's shopping district, which is owned by a nonprofit, and it includes a Santa house, Christmas

tree, a "Seasons Greetings" banner, and a crèche, which had been a staple of the display for over 40 years. A lawsuit challenged the display and specifically the inclusion of the crèche.

- *ACLU v. City of Birmingham*, 791 F.2d 1561 (6th Cir. 1986).

  The ACLU filed suit to expel a crèche from the annual holiday display at city hall, claiming it violated the Establishment Clause.

- *ACLU of New Jersey v. Schundler*, 168 F.3d 92 (3d Cir. 1999).

  The ACLU filed suit to challenge a holiday display, which included a crèche and a menorah, claiming the display violated the Establishment Clause.

- *ACLU of Kentucky v. Wilkinson*, 701 F. Supp. 1296 (E.D. Ky. 1988).

  The ACLU filed suit to challenge a nativity scene on the Kentucky Capitol, seeking an injunction preventing the continued use of the nativity scene, claiming the nativity scene was an endorsement of religion.

- *ACLU v. City of Florissant*, 186 F.3d 1095 (8th Cir. 1999).

  The ACLU filed suit to challenge a holiday display at the city Civic Center in Florissant, Missouri on behalf of a resident who was offended by the inclusion of the crèche in the holiday display.

- *ACLU of New Jersey v. Schundler*, 104 F.3d 1435 (3d Cir. 1997).

  The ACLU along with some citizens filed suit challenging a holiday display containing a crèche and a menorah on city hall property.

- *Americans United for Separation of Church and State v. City of Grand Rapids*, 1992 U.S. App. LEXIS 7513 (6th Cir. 1992).

Americans United filed suit to prevent a menorah from being placed on Calder Plaza in Grand Rapids during the Chanukah celebration, claiming the placement of the menorah established religion. The court struck down the display, determining that the city appeared to be endorsing religion because of the display.

• *Calvary Chapel Church, Inc. v. Broward County*, 299 F. Supp. 2d 1295 (S.D. Fla. 2003).

Broward County, Florida hosts the Holiday Fantasy of Lights in a public park as a city fundraiser. A church wanted to contribute to the event and have a display that included the words, "Jesus is the Reason for the Season," but the city refused to allow it. The church filed a lawsuit in order to protect their constitutional rights to participate in the city event without having their message being censored because it was religious.

• *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753 (1995).

The board responsible for regulating the Ohio State Capitol Square refused a permit to a group wanting to display a cross during the 1993 Christmas season, so a lawsuit was filed.

• *Comty. for Creative Non-Violence v. Lujan*, 908 F.2d 992 (D.C. Cir. 1990).

The Park Service has hosted a "Christmas Pageant of Peace" on White House grounds since 1954 and includes the pageant included the National Christmas Tree, a Nativity Scene, and live reindeer. The Park Service declined to include a sculpture from the Community for Creative Non-Violence, and the Community filed suit.

• *County of Allegheny v. ACLU*, 492 U.S. 573 (1989).

The ACLU challenged a holiday display, and the Supreme Court held that a menorah in front of the City-County Building for a seasonal display did not violate the Establishment Clause, though a crèche in the county courthouse did.

• *Doe v. Small*, 934 F.2d 743 (7th Cir. 1991).

Citizen filed a lawsuit to challenge a city annual yuletide display, which included 16 large paintings showcasing events in the life of Jesus Christ in hopes of eradicating the religious expression from the public square and striking down the yuletide display. The court struck down the long-standing tradition of including the 16 pictures of Jesus, finding that such a display endorsed religion and as such violated the Establishment Clause.

• *Doe v. City of Westland*, 1987 U.S. Dist. LEXIS 15321 (E.D. Mich. 1987).

Doe, supported by the ACLU, brought a lawsuit to challenge a Christmas display in the Westland central city complex because it included a nativity scene.

• *Kaplan v. City of Burlington*, 891 F.2d 1024 (2d Cir. 1989).

Lawsuit challenged a menorah display during December, and the court struck down the display of the menorah on the grounds that such religious expression offended the Establishment Clause.

• *King v. Village of Waunakee*, 517 N.W.2d 671 (Wis. 1994).

Citizens filed a lawsuit challenging a crèche display during the Christmas season, seeking to eradicate the religious symbol from public square.

• *Mather v. Village of Mundelein*, 864 F.2d 1291 (7th Cir. 1989).

Plaintiff Rachel Mather challenged the holiday display in front of Village Hall in Mundelein, alleging that the display included a crèche and gave her a sense of inferiority because she's Jewish.

- *Soc'y of Separationists, Inc. v. Clements*, 677 F. Supp. 509 (W.D. Tex. 1988).

  The Society of Separationists filed a lawsuit challenging the "Christmas Carol Program," which is an annual event in the Texas Capitol when a Christmas tree is presented to Texas, politicians make speeches, the Texas Public Employees Association presents money to charity, Santa visits, singers perform Handel's Messiah and two religious carols are performed. The Separationists asserted that the program violates the Establishment Clause and sought a preliminary injunction to prevent the program from occurring.

- Terry Mattingly, *On Religion: Things Got Rough on Church-State Front This Holiday Season*, Naples Daily News, Jan. 17, 2004.

  The article chronicles the Christmas Season and the drama relating to public displays of celebration, including a story on firefighters in Glenview, Illinois who removed Christmas lights after neighbors complained of being offended. In addition, a pastor in Chandler, Ariz. complained that the public library display excluded Christmas and only included Hanukkah and Kwanzaa. The library took down the entire display, rather than augment the display with some information about Christmas. And in Tallahassee, Florida, a controversy erupted when a Jewish Chabad offered to help purchase a menorah for the courthouse yard and the ACLU threatened suit.

CITY SEALS , MOTTO, SCULPTURES, AND THE PLEDGE

• *ACLU v. Capitol Square Review and Advisory Bd.*, 243 F.3d 289 (6th Cir. 2001).

The ACLU filed a lawsuit challenging Ohio's motto, "With God, All Things Are Possible."

• *Gaylor v. U.S.*, 74 F.3d 214 (10th Cir. 1996).

The Freedom from Religion Foundation along with some citizens challenged the use of the national motto on the U.S. currency in federal court.

• *ACLU v. City of Stow*, 29 F. Supp. 2d 845 (N.D. Ohio 1998).

The ACLU challenged the placement of a cross on Stow's city seal, claiming that the use of such a symbol served as an establishment of religion. Unfortunately, the ACLU prevailed in the lawsuit because the court found that a reasonable observer would perceive the cross on the seal as an establishment of religion with the effect of advancing or promoting Christianity, and the city was forced to remove the cross.

• *Harris v. City of Zion*, 927 F.2d 1401 (7th Cir. 1991).

The Society of Separationists and some other citizen plaintiffs challenged the use of religious symbols on city seals in Rolling Meadows and Zion, Ill. The Rolling Meadows seal contained a Latin cross and was adopted in 1960 and the Zion's seal contained a Latin cross, a dove carrying a branch and was adopted in 1902. The court struck permanently enjoined the cities from using the long-standing seals, considering the use of the religious symbols to violate the Establishment Clause. The decision effectively eradicated both cities' religious history and influence from the city seals.

• *King v. Richmond County*, 331 F.3d 1271 (11th Cir. 2003).

A small group of citizens filed suit and claimed that the 130-year-old seal of the Superior Court of Richmond County violated the Establishment Clause and was unconstitutional because the image included a portrayal of the Ten Commandments tablets.

• *Robinson v. City of Edmond*, 68 F.3d 1226 (10th 1995).

Plaintiffs filed suit to challenge the use of a Latin or Christian cross on the Edmond's city seal, which was adopted in 1965 through a competition through the City Counsel and the local newspapers. The cross reflected the historical importance of the Catholic Church in the development of the southwest, but the court held that the seal established religion and struck down the use of the cross, eradicating the historical significance of religion from the seal.

• *Lambeth v. Bd. of Comm'rs*, 2004 U.S. Dist. LEXIS 11195 (M.D.N.C. 2004).

A pair of attorneys filed suit claiming that a display of the national motto on the Davidson County Governmental Center violates the Establishment Clause.

• *Alvarado v. City of San Jose*, 94 F.3d 1223 (9th Cir. 1996).

The City of San Jose installed and maintained a sculpture ("Plumed Serpent" - of Aztec mythology) to commemorate the Mexican and Spanish contributions to the city's culture. When people began to bring flowers and burn incense at the sculpture, citizens filed suit claiming the sculpture violated the Establishment Clause, but the court upheld that sculpture.

• *Mendelson v. City of St. Cloud*, 719 F. Supp. 1065 (M.D. Fla. 1989).

A citizen sued the city claiming an illuminated Latin cross on a city water tower violated the Establishment Clause, and the court determined that the cross violated the Establishment Clause and enjoined the city from keeping the cross on the water tower, expunging the religious expression from the public square.

- *Murray v. City of Austin*, 947 F.2d 147 (5th Cir. 1991).

  The Society of Separationists brought suit challenging city insignia of Austin because it included a cross, but the court upheld the city's insignia against the censorship attempt.

- *Myers v. Loudoun County Sch. Bd.*, 251 F. Supp. 2d 1262 (E.D. Va. 2003)(mem.).

  A lawsuit was filed challenging the constitutionality of two Virginia statutes, one that required students in public schools to say the pledge of allegiance and the other required the national motto to be posted at Virginia schools.

- *Newdow v. U.S. Congress*, 328 F.3d 466 (9th Cir. 2002).

  Atheist Michael Newdow filed suit to remove the words "under God" from the Pledge of Allegiance. Newdow's daughter attends public elementary school where students recite the Pledge as part of the morning activities. Newdow filed suit claiming that his daughter is injured because she is compelled to witness her teacher lead her classmates in a ritual where they are proclaiming that there is a God and that our nation is under God.

- *Paulson v. City of San Diego*, 294 F.3d 1124 (9th Cir. 2002).

  A citizen challenged the constitutionality of a cross erected in Mt. Soledad Natural Park, which is owned by San Diego, and the court found that the city

violated the California Constitution by keeping the cross and forbade the city from maintaining the cross.

- Hugo Martin, *Facing ACLU Complaint, City to Drop Seal's Cross*, L.A. Times, April 29, 2004, at B1.

  The ACLU threatened a lawsuit against the city of Redlands if the city did not remove a cross from the city's seal. The city removed the cross rather fight a legal battle against the ACLU, despite many protests from citizens wanting the seal to retain the cross.

- Sue Fox, *Facing Suit, County to Remove Seal's Cross*, L.A. Times, June 2, 2004, at B1.

  The ACLU threatened a lawsuit if the Los Angeles County did not remove a cross from the county's seal, and the county succumbed to the ACLU's pressure and decided to remove the cross. The cross had adorned the seal since 1957 along with a cow, tuna fish, Spanish galleon, the Hollywood Bowl, and the Goddess Pomono. The region was settled by Catholic missionaries and the cross memorialized that historical fact.

- *From Springfield, Missouri:*

  The ACLU filed a lawsuit challenging the use of an ichthus (i.e. a Christian fish symbol) on the city of Republic's seal, and a federal judge ordered the city to remove the symbol.

- *ACLU Finds Gold at the Foot of the Cross*, Chattanooga Times Free Press, June 24, 2004, B7 (editorial).

  The editorial outlines the amount of money the ACLU receives in attorneys' fees from challenging Ten Commandments displays, religious symbols on city seals,

and the Pledge of Allegiance. When a city loses one of these battles in court, the city must pay the ACLU, into the tens of thousands to the hundreds of thousands of dollars.

- John E. Thompson, *What's the Big Deal? The Unconstitutionality of God in the Pledge of Allegiance*, 38 Harv. C.R.-C.L. L. Rev. 563 (2003).

TEN COMMANDMENTS

- *Harvey v. Cobb County*, 811 F. Supp. 669 (N.D. Ga. 1993), aff'd per curiam, 15 F. 3d 1097 (11th Cir. 1994).

  Plaintiffs filed suit challenging a framed panel of Ten Commandments and the Great Commandment displayed at the county courthouse. The court concluded that the displays were unconstitutional, but the court allowed a stay so that the county could incorporate non-religious, historical items, which according to the court would transform the display to fit within constitutional guidelines.

- *Ind. Civ. Liberties Union v. O'Bannon*, 259 F.3d 766 (7th Cir. 2001).

  The Fraternal Order of the Eagles donated Ten Commandments plaques to communities across the U.S. in the 1950s, including one to the Indiana Statehouse in Indianapolis, which was destroyed in 1991 by a vandal. An Indiana State Representative planned a replacement monument consisting of the Ten Commandments, the Bill of Rights, and the Preamble to the Indiana Constitution, but a lawsuit was filed challenging the proposed monument on the grounds that it would establish religion. The court did indeed find that such a monument would violate the Establishment Clause as citizens may not understand the connection

between the display and our nation's legal history and think the monument was erected for religious purposes.

- *Kimbley v. Lawrence County, Ind.*, 119 F. Supp. 2d 856 (S.D. Ind. 2000).

  Civil liberties groups filed suit in response to a proposed Ten Commandments display, which had been authorized by state law, seeking to prevent the display.

- *Mercier v. City of La Crosse*, 276 F. Supp. 2d 961 (W.D. Wis. 2003).

  In the 1960s, the Fraternal Order of the Eagles (FOE) donated a Ten Commandments display to the city, and in the 1980s, citizens complained about the display. The city sold the portion of land on which the monument was located to FOE and placed signs stating that FOE owned the property and that the city did not endorse religion. This did not satisfy the Freedom from Religion Foundation and some citizens, and the organization filed a lawsuit still seeking to strike down the display. The court held that despite the fact that the city had sold the land to a private organization, the Ten Commandments monument still implied that the city was endorsing religion and ordered FOE's land be returned to the city and the monument removed.

- *ACLU of Kentucky v. Grayson County*, 2002 WL 1558688 (W.D. Ky. 2002).

  A Grayson County courthouse display called "Foundations of American Law and Government Display" is composed of a variety of documents including the Ten Commandments, the Magna Carta, the Mayflower Compact, The Star Spangled Banner, among others. But the ACLU filed a lawsuit to challenge the display because the Ten Commandments were included. The court censored the use of the Ten Commandments in the display.

- *ACLU Neb. Found. v. City of Plattsmouth*, 358 F.3d 1020 (8th Cir. 2004), vacated, reh'g granted 2004 U.S. App. LEXIS 6636.

  The ACLU and a member who resided in Plattsmouth, Nebraska filed suit, complaining that the city's Ten Commandment display violated the Establishment Clause. The display was donated to the city in 1965 by the Fraternal Order of the Eagles, which erected many such displays in the 1950s and 1960s in an effort to combat juvenile delinquency. The court struck the display down, determining that it promoted religion.

- *Adland v. Russ*, 307 F.3d 471 (6th Cir. 2002).

  In 2000, Kentucky Governor Paul E. Patton signed a resolution that permitted public school teachers to display the Ten Commandments in their classroom also authorized the relocation of the Ten Commandments monument from the Fraternal Order of the Eagles on Capitol grounds as part of a display that would showcase Kentucky's Biblical historical heritage. Citizens protested the proposed display and filed a lawsuit to challenge the resolution, and the court determined that the proposal was unconstitutional.

- *Baker v. Adam County/Ohio Valley Sch. Bd.*, 2004 U.S. App. LEXIS 481 (6th Cir. 2004) (not recommended for full-text publication).

  A school board erected Ten Commandment monuments that a county ministerial association paid for, and a suit was filed, challenging the constitutionality of the monuments. The school board added other historical documents relating to the development of American law and government to the displays, but the lawsuit continued anyway. The court ordered that the monuments be removed.

• *Books v. City of Elkhart*, 235 F.3d 292 (7th Cir. 2001).

Elkhart's Municipal Building had a monument of the Ten Commandments, and residents filed suit in objection to the display, claiming it violated the Establishment Clause. The Seventh Circuit struck down the display.

• *ACLU v. McCreary County*, 354 F.3d 438 (6th Cir. 2003).

The ACLU filed suit to challenge Ten Commandments displays from three Kentucky county courthouses, seeking to have the displays removed, and the Sixth Circuit ordered the displays be eradicated from the courthouse.

• *ACLU of Ohio v. Ashbrook*, 211 F. Supp. 2d 873 (N.D. Ohio 2002).

The ACLU brought a lawsuit seeking the removal of the Ten Commandments from a state courtroom display, which features the Ten Commandments along with the Bill of Rights, and the court struck down the display.

• *ACLU of Tenn. v. Hamilton County*, 202 F. Supp. 2d 757 (E.D. Tenn. 2002).

The ACLU filed suit challenging the Ten Commandments displays in county courthouses.

• *ACLU of Tenn. v. Rutherford County*, 209 F. Supp. 2d 799 (M.D. Tenn. 2002).

The ACLU sued Rutherford County to challenge the Ten Commandments display in the county courthouse lobby.

• *Chambers v. City of Frederick*, 292 F. Supp. 2d 766 (N.D. Md. 2003)(mem.).

Chambers, a Frederick resident, objected to the Ten Commandment display in the city park that the Fraternal Order of the Eagles (FOE) had donated in 1958. In response, the city sold that portion of the park to the FOE, and the FOE covenanted to care for the area. Chambers still not satisfied, filed a lawsuit.

• *DiLoreto v. Downey Unified Sch. Dist. Bd. of Educ.*, 196 F.3d 958 (9th Cir. 1999).

A school's baseball booster club raised funds by selling ads on the baseball field fence for $400. Mr. DiLoreto, CEO of Yale Engineering, bought an ad, which he sought to use to display the Ten Commandments. But the sign was rejected and Mr. DiLoreto's money was returned. A lawsuit was filed to protect Mr. DiLoreto from viewpoint discrimination.

• *Doe v. Harlan County Sch. Dist.*, 96 F. Supp. 2d 667 (E.D. Ky. 2000).

A Harlan student's parents filed suit to challenge the public schools' practice posting the Ten Commandments in classrooms. In response to the lawsuit, the school district added other historical documents to the displays, but the lawsuit continued.

• *Freethought Soc'y v. Chester County*, 334 F.3d 247 (3rd Cir. 2003).

A lawsuit was filed to challenge the Ten Commandments display on the county courthouse façade, but the court allowed the display to remain.

• *Grassroth v. Moore*, 335 F.3d 1282 (11th Cir. 2004).

Alabama Supreme Court Chief Justice Roy S. Moore installed a Ten Commandments monument in the state's judicial building, and a lawsuit was filed to challenge the display and the monument was forcibly removed.

• *Stone v. Graham*, 449 U.S. 39 (1980)(per curiam).

A lawsuit challenged a statute that required the posting of the Ten Commandment in classrooms, with a disclaimer relating to the secular use of the Ten Commandments in Western Civilization.

• *Summum v. City of Ogden*, 297 F.3d 995 (10th Cir. 2002).

The Summum Church asked the city of Ogden to replace a Ten Commandments display that the Fraternal Order of the Eagles had donated to the city with a monument to the Summum religion. The church filed a lawsuit.

- *Turner v. Habersham County*, 290 F. Supp. 2d 1362 (2003).

  Citizens challenged the display of the Ten Commandments at the Habersham County Courthouse.

- *Van Orden v. Perry*, 351 F.3d 173 (5th Cir. 2003).

  A Texan challenged the Ten Commandments display on state capitol grounds in Austin, but the court upheld the display.

- *Young v. County of Charleston*, 1999 WL 33530383 (S.C. Com. Pl. 1999).

  A court struck down a city courthouse Ten Commandment display as a violation of the Establishment Clause.

- Nicole Buzzard, *A Youth with a Mission: A Santiago High School Junior seeks to post the Ten Commandments at Corona-Norco Campuses*, The Press Enterprise Co. (Riverside, CA), June 30, 2004, B01.

  High school junior Jason Farr wanted to post Ten Commandments fliers in his high school, Santiago High School, and other schools in his district. After posting the Ten Commandments fliers, he was threatened with a five-day suspension. Additionally, Farr has been informed that the Bible is not suitable material for the silent reading period, despite the fact that it fulfills page and genre requirements.

- Brad Hern, *Coalition Wants to put Monument on Ballot; Boise City Attorneys will Determine whether Voter Initiative is Valid,* The Idaho Statesman, June 14, 2004, at Local, p. 1.

Supporters of Ten Commandments displays in Treasure Valley are working to overturn the removal of the Ten Commandments display by the city council.

- Kristen Wyatt, *Counties Continue Religious Postings*, The Associated Press, July 8, 2004, North Georgia, BI.

  Two Georgia counties have added Ten Commandment displays to their courthouses, and legal challenges may likely follow.

- *From Manhattan, Kansas:*

  The ACLU and the Americans United for Separation of Church and State challenged a Ten Commandments monument at the city hall in Manhattan. After the lawsuit was filed, the City Commission decided to settle and remove the display.

- *From Everett, Washington:*

  The Americans United for Separation of Church and State filed suit challenging a Ten Commandments Display donated by the Fraternal Order of Eagles.

- Brian T. Coolidge, *From Mount Sinai to the Courtroom: Why Courtroom Displays of the Ten Commandments and Other Religious Text Violate the Establishment Clause*, 39 S. Tex. L. Rev. 101 (1997).

OTHER

- *Marsh v. Chambers*, 463 U.S. 783 (1983).

  A member of the Nebraska legislature brought suit challenging the longstanding practice of employing a chaplain to pray before the opening of each legislative session, claiming the practice was unconstitutional.

• *Barnes-Wallace v. Boy Scouts of America*, 275 F. Supp. 2d 1259 (S.C. Cal. 2003).

An agnostic family sued San Diego and the Boy Scouts because the city had leased some public parkland to the Boy Scouts. They claimed the lease violated the Establishment Clause.

• *HEB Ministries v. Texas Higher Educ. Coordinating Bd.*, 114 S.W.3d 617 (Ct. App., Austin 2003).

Texas passed a law forcing all private postsecondary educational institutions in the state to get accreditation from a state agency. Tyndale Seminary was fined $173,000 by the state for using the word "seminary" and issuing theological degrees without government approval. A suit was filed to prohibit the government attempts to control religious training, but the Texas Court of Appeals in Austin upheld the law.

• *Doe v. Vill. of Crestwood*, 917 F.2d 1476 (7th Cir. 1990).

A long-standing tradition of the Village of Crestwood's "A Touch of Italy" festival was to include an Italian Mass, but a citizen filed suit challenging the mass tradition.

• *Freedom From Religion Found. v. McCallum*, 324 F.3d 880 (7th Cir. 2003).

The Freedom from Religion Foundation filed a lawsuit to prevent correctional authorities from funding Faith Works because the halfway house incorporates Christianity into its program.

• *Freedom From Religion Found. v. Romer*, 921 P.2d 84 (Colo. Ct. App. 1996).

The Freedom from Religion Foundation sued Denver City Council members and Arapaho County officials after the Pope visited Denver for World Youth Day in

1993. The lawsuit asserted that using a state park for religious services, temporarily closing the park to the public and use of state funds to facilitate the visit violated the First and Fourteenth Amendments.

- *North Carolina Civil Liberties Union Legal Foundation v. Constangy,* 947 F.2d 1145 (4th Cir. 1991).

  A legal organization and some citizens challenged a judge's practice of opening his session with a prayer, seeking to forbid the judge from continuing the practice.

- Bill McAllister, *Postal Service Ends Christ Camp Stamp Series*, Washington Post, Nov. 19, 1994, at F1.

  The Post Office replaced its Madonna and Child stamp in the holiday stamp collection with an angel stamp after using the Madonna and Child for 28 years. The Post Office resumed the stamp after there was a public outcry.

- *From Madison, Wisconsin:*

  The Freedom from Religion Foundation challenged the constitutionality of a faith-based program working to rehabilitate and treat prisoners who have drug and alcohol addictions. The program was highly successful and President Bush even visited it to stress excellence and success of the program. Although the faith-based program was merely an option, and no prisoner had to choose to attend the program, the Freedom from Religion Foundation challenged the program because of its disdain that the program was an option for prisoners and that state funding was used by the program, claiming a "separation of church and state" violation.

- *Grace Community Church, et al. v. City of McKinney, et al.,*

  Civil Action No. 4:04CV251

A new church starting in McKinney, Texas began meeting on Sundays in the pastor's home with a few couples. The City took drastic action to shut down a church meeting in the home. The City has no problem with people meeting in their homes for football watch parties, birthday parties or even commercial gatherings to sell Tupperware. However, the City prohibits a church meeting in a home unless the home sits on at least two acres.